

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, :
:
Applicant, : **22 Misc. 00248**
-against- : **ECF Case**

CURTIS WAYNE CRONIN and JOHN JOSEPH, :
:

Respondents. :

x

ORDER TO COMPEL COMPLIANCE WITH SUBPOENAS

WHEREAS, on September 1, 2022, the Securities and Exchange Commission (“Commission”) applied for orders (i) directing Respondents Curtis Wayne Cronin (“Cronin”) and John Joseph (“Joseph”) (collectively, “Respondents”) to show cause why they should not be ordered to produce documents and appear for testimony as called for by the Commission’s investigative subpoena issued to them on July 18, 2022 (the “Subpoenas”); and (ii) requiring the Respondents to comply with the Subpoenas, attached as Exhibits 26 and 27 to the Declaration of Christopher M. Castano in Support of Securities and Exchange Commission’s Application for an Order To Show Cause and for an Order Requiring Compliance with Subpoenas (Docket Entry No. 6);

WHEREAS, the Court’s Order to Show Cause, entered on September 2, 2022, required: (i) the Commission to serve the Respondents, by September 6, 2022, with the Commission’s application papers and the Order to Show Cause by email or United Parcel Service overnight delivery; (ii) Respondents to file and serve any papers opposing the Commission’s application by September 12, at 5:00 p.m.; and (iii) Respondents to appear on September 14, 2022, at 3:30 p.m. before this Court to show cause why Respondents should not be ordered to produce documents in response to the Subpoenas and why Respondents should not be ordered to appear for testimony in response to the Subpoenas;

WHEREAS, the Commission has filed a Declaration of Service (Docket Entry No. 11),

showing that it timely served the Respondents with the application papers and Order to Show Cause;

WHEREAS, the Court held a hearing on September 14, 2022, at 3:30 p.m. (the “Hearing”), at which Commission counsel and the Respondents appeared;

WHEREAS, the Court issued an Order dated September 20, 2022, extending to September 28, 2022, the date by which the parties were to submit a proposed agreed-upon order consistent with the Court’s rulings at the Hearing;

WHEREAS, the Court has considered the application filed by the Commission and the memorandum of law, declaration, and exhibits filed in support of the application, the arguments made by the Respondents at the Hearing, and the papers submitted by the Respondents at the Hearing; and

WHEREAS, the Court is satisfied that the Commission has made a sufficient and proper showing in support of the relief sought in its application for the reasons set forth on the record at the Hearing, and therefore:

I.

IT IS HEREBY ORDERED that Respondents shall make an initial production of documents responsive to the Subpoenas within their possession, custody, or control to the Commission by no later than 5:00 p.m. on October 14, 2022, by sending or delivering them to Christopher M. Castano, Senior Attorney, Securities and Exchange Commission, New York Regional Office, 100 Pear Street, Suite 20-100, New York, NY 10004, or delivering an electronic production pursuant to instructions to be provided by the Commission staff. Respondents shall continue making document productions until all documents responsive to the Subpoenas within their possession, custody, or control are produced to the Commission as set forth above by November 14, 2022, or by such later date if agreed upon by the parties. If the Respondents claims any privilege or protection over any documents responsive to the Subpoenas, they shall, by the November 14, 2022, or by such later date agreed upon by the parties, and using the same delivery methods set forth above, provide the Commission with, for

each document or similar group of documents, (a) a written description of the type of document withheld, *e.g.*, letter or memorandum; (b) the general subject matter of the document; (c) the date of the document; (d) the author(s) of the document, the addressee(s) of the document, and any other recipient(s), and, where not apparent, the relationship of the author(s), addressee(s), and recipient(s) to each other; and (e) the nature of the privilege or protection asserted.

II.

IT IS FURTHER ORDERED that, if the Respondents do not have documents within their possession, custody, or control that are responsive to any one or more requests contained in the Subpoenas, the Respondents will submit a sworn statement to the Commission describing the efforts he made to locate such responsive documents and the results of those efforts by no later than 5:00 p.m. on November 14, 2022, by sending or delivering the statement to Christopher M. Castano, Senior Attorney, Securities and Exchange Commission, New York Regional Office, 100 Pear Street, Suite 20-100, New York, NY 10004

III.

IT IS FURTHER ORDERED that Respondent Joseph shall appear to provide sworn testimony before the Commission via Webex, within 14 days after Respondent's counsel advises the Commission staff that all responsive documents have been produced, or such later date as agreed by the parties.

IV.

IT IS FURTHER ORDERED that Respondent Cronin shall appear to provide sworn testimony before the Commission via Webex, within 14 days after Respondent's counsel advises the Commission staff that all responsive documents have been produced, or such later date as agreed by the parties.

V.

IT IS FURTHER ORDERED that, if the Respondents do not produce the documents or statements in the manner or by the dates described in paragraph I and II above, or do not appear for testimony as described in paragraphs III and IV, the Commission will have established a

prima facie case of civil contempt against the Respondents for their failure to comply with this Order and the Respondents may be held in civil contempt for failure to comply with this Order. The Court retains jurisdiction of this matter for the purposes of enforcing the terms of this Order.

SO ORDERED

Dated: September 29, 2022
New York, New York

Any pending motions are moot. All conferences are vacated. The Clerk of Court is directed to close the case.



UNITED STATES DISTRICT JUDGE